

ORDINANCE NO. 2016-9-11

AN ORDINANCE OF THE COUNTY OF TETON, STATE OF IDAHO, ADDING TETON COUNTY CODE TITLE 9, CHAPTER 11 TO ADDRESS THE BUILDING RIGHT ELIGIBILITY OF PREVIOUSLY CREATED PARCELS.

BE IT ORDAINED by the Board of County Commissioners of Teton County, Idaho that Title 9, Chapter 11 of the Teton County Code shall be added as follows:

CHAPTER 11

BUILDING PERMIT ELIGIBILITY OF PREVIOUSLY CREATED PARCELS

SECTION:

9-11-1 PURPOSE AND INTENT OF PROVISIONS.

9-11-2 LEGALLY CREATED PARCELS – REQUIRED FOR GRANTING OF CERTAIN PERMITS – CRITERIA FOR DETERMINATION.

9-11-3 NOTICE OF VIOLATION – REQUIRED WHEN – CONTENTS – EFFECT.

9-11-4 CERTIFICATE OF COMPLIANCE – REQUEST FOR DETERMINATION AUTHORIZED.

9-11-5 CERTIFICATE OF COMPLIANCE – APPLICATION PROCEDURE – DOCUMENTS TO BE SUBMITTED – FEE.

~~9-11-6 VOIDABILITY OF DEEDS OR CONTRACTS VIOLATING PROVISIONS.~~

~~9-11-7-6~~ FAILURE TO COMPLY AND ILLEGAL DIVISION OF LAND DEEMED MISDEMEANOR – PENALTY.

9-11-87 NONCOMPLYING PARCELS – PROCESSES FOR OBTAINING BUILDING RIGHTS.

9-11-98 DENIAL OF APPLICATION.

9-11-~~10~~-9 APPEAL OF FINAL DECISIONS.

9-11-1 PURPOSE AND INTENT OF PROVISIONS.

In accordance with the provisions of the LLUPA (Idaho State Code 67-65), it is the purpose and intent of the Board of County Commissioners to establish procedures for placing purchasers of illegally split parcels on notice that such parcel split occurred in violation of the LLUPA and the requirements of Teton County Code- Title 9, and to provide for a means of certifying that the real property does comply with the provisions of LLUPA and Teton County Code- Title 9.

9-11-2 LEGALLY CREATED PARCELS – REQUIRED FOR GRANTING OF CERTAIN PERMITS – CRITERIA FOR DETERMINATION.

No building permit, grading permit nor any other permit may be issued, nor any approval granted necessary to develop any property, unless and until said property has been determined to have been

legally created; provided further, such permits may be denied if the applicant was the owner of the real property at the same time of the violation or currently owns the property with the knowledge of the violation as provided through a notice of violation pursuant to the procedures set forth herein.

For a parcel to be considered a legally created parcel, its specific boundaries must have been established or set forth by one of the following means:

- A. A signed & recorded subdivision plat;
- B. If the parcel was created BEFORE June 14, 1999:
 - a. A deed describing the parcel by a metes-and-bounds description recorded prior to June 14, 1999 (contiguous sub-“lots” or sub-“parcels” described on a single deed are considered a single parcel);
 - ~~a-or~~
 - b. A record of survey recorded prior to June 14, 1999 showing the existing boundaries;
- C. If the parcel was created AFTER June 14, 1999:
 - a. A recorded “One-Time-Only” survey with a Teton County authorization signature (these may also be labeled as “Lot Split”, “Land Splits”, or something similar);
 - or
 - b. A recorded “Agricultural Exemption” survey recorded prior to September 22, 2003 (these may be labeled as an “Ag. Split”, “Ag. Break-off” or something similar);
 - ~~a-or~~
 - ~~b-c.~~ A recorded survey identifying the legal process in Title 9 and the created parcels met the requirements of the identified process in Title 9 at the date of creation;
 - D. Any of the above means combined with a County-approved and recorded boundary adjustment survey or amended plat;
 - ~~D-E.~~ Any parcel that was approved by the Planning and Zoning Commission or Board of County Commissioners and there are minutes verifying the approval;
 - ~~E-F.~~ Signed & recorded “Parcel Rectification Plat”, in compliance with 9-11-87.

9-11-3 NOTICE OF ~~VIOLATION-NO BUILDING RIGHTS~~ – REQUIRED WHEN – CONTENTS – EFFECT.

If the Planning ~~Director-Administrator~~ becomes aware of any parcel which has not resulted from a legal division or consolidation of property in compliance with LLUPA and applicable County Codes, he/she will send to the property owner, or owners, of said property written notice notifying them of the violation. This written notification will advise the property owner(s) that:

- A. The Planning ~~Director-Administrator~~ has determined that subject property together with other contiguous property has been divided or has resulted from a division in violation of LLUPA and applicable County codes;
- B. No building permit, grading permit nor any other permit may be issued, nor any approval granted necessary to physically develop said property (this does not include subdividing), unless and until an identified approval process 9-11-8 is completed, approved, and recorded in full compliance with the LLUPA and provisions of this Chapter, adopted pursuant thereto.

C. The Planning ~~Director~~Adminsitrator will cause a notice of violation to be recorded in the office of the county recorder within 15 days of notification to property owner(s) which will describe the violation and the property and name the owner(s) thereof. This notice when recorded will be constructive notice of the violation to all successors in interest of said property;

~~D. If subject property was purchased through a licensed real estate salesman or broker after the adoption of this ordinance and it is felt that the property was misrepresented, the Idaho Real Estate Commission shall be notified.~~

9-11-4 CERTIFICATE OF ~~COMPLIANCE~~ BUILDING PERMIT ELIGIBILITY – REQUEST FOR DETERMINATION AUTHORIZED.

Any person owning real property may apply for a Certificate of ComplianceBuilding Permit Eligibility, and the County shall determine whether said property was created in a way that complied with the provisions of Title 9, and thus constitutes a legal and buildable parcel.

9-11-5 CERTIFICATE OF BUILDING PERMIT ELIGIBILITY – ~~COMPLIANCE~~ – APPLICATION PROCEDURE – DOCUMENTS TO BE SUBMITTED – FEE.

A. Application.

1. Application for a “Certificate of Compliance Building Permit Eligibility” shall be made with the Planning ~~and Building~~ Department in accordance with the following specifications:

i. A completed application form must be filled out

~~2. Each plat shall contain the following information:~~

B. A notice stating the following shall be signed:

This certificate relates on to issues of compliance or noncompliance with LLUPA and local ordinances enacted pursuant thereto. The parcel described herein may be sold, leased or financed without further compliance with LLUPA or any local ordinance enacted pursuant hereto. Development of the parcel may require issuance of a permit or permits, or other grants of approval.

C. The required filing fee(s).

~~9-11-6 VOIDABILITY OF DEEDS OR CONTRACTS VIOLATING PROVISIONS.~~

~~Any deed of conveyance, sale or contract to sell made contrary to the provisions of this title may be voidable in accordance with Idaho State Code 55-9.~~

9-11-7 6 FAILURE TO COMPLY AND ILLEGAL DIVISION OF LAND DEEMED ~~MISDEMEANOR~~ – PENALTY-A VIOLATION

Those parcels of land which are subdivided contrary to the provisions of this title shall not constitute legal building sites and no permit shall be issued for the installation of fixtures or equipment or for the erection, construction, conversion, establishment, alteration, or enlargement of any building, structure or improvement thereon unless and until an identified approval process (9-11-~~87~~) is completed, approved, and recorded in full compliance with the LLUPA and provisions of this Chapter. Any person

who subdivides or causes to be subdivided land without complying in all respects with the provisions of this title shall be subject to prosecution ~~for a misdemeanor as defined hereinafter, as define in Teton County Code Title 1, Chapter 4. Any offer to sell, contract to sell, sale or deed of conveyance made contrary to the provisions of this title is a misdemeanor, and any person, firm or corporation, upon conviction thereof, shall be punishable by a fine of not more than \$10,000, or imprisonment for a period of not more than one year, or by both such fine and imprisonment.~~

EXCEPTION: Parcels created for bona-fide agricultural purposes in conformance with Teton County Code, Title 9-2-2, definition of "Agricultural Exemption" or parcels created without building rights, where a "Notice of No Building Rights" has been recorded referencing the property, shall not be found to be in violation of this title.

9-11-~~8~~7 NONCOMPLYING PARCELS – PROCESSES FOR OBTAINING BUILDING RIGHTS.

The owner, purchaser, or his successor in interest, of a parcel which is the result of a division of land that did not comply with the provisions of Title 9 may utilize the following provisions to bring the parcel/parcels into compliance:

- A. Recordation of no building rights: if the illegal split resulted in two (2) parcels, but there was only one (1) building right and the property owners of the two lots agree that one of the lots will remain unbuildable, they may record an official document clarifying which parcel would receive the building right and which one would not.
- B. Retroactive One-Time-Only:
 1. Applicability-The parent parcel of the illegal split would be eligible for a One-Time-Only under the ~~existing current~~ code.
 2. Process- The process for a One-Time-Only split must be followed, and the required fees for that process shall be submitted as well. The property owners of both parcels must sign the application.
 3. Criteria for Approval- All requirements and submittals for the One-Time-Only shall be followed.
- C. Parcel Rectification Plat:
 1. Applicability-The parcel would not qualify for a retroactive One-Time-Only, yet can meet the criteria found in 9-11-~~8~~7-C-4.
 2. Application-

A property owner(s) of parcel(s) receiving a notice of violation, that does not qualify for a Retroactive One-Time-Only can complete and submit the "Parcel Rectification Plat" application provided by the Planning ~~and Building~~ Department. Application to this process does not guarantee approval. In addition to the complete application form, the following is required:

 - i. Fees (Application and Survey/Plat review fee);
 - ii. Narrative outlining how, when, and by whom the parcels were originally created;
 - iii. Approval letter from Eastern Idaho Public Health;
 - iv. Approval letter from Teton County Fire District;
 - v. Acceptance letter from the city for sewer hookup, or from the providing community, if applicable;

- vi. Plat created by a surveyor, licensed in the State of Idaho which includes:
 - a. Vicinity Map, Date of Survey, and North Arrow
 - b. Map scale adequate to depict all adjusted lots (show Bar Scale)
 - c. Legend with a description for all line weights and symbols used
 - d. All bearings and distances for all property lines. Include Basis of Bearing and CP&F Reference
 - e. All known easements shown with their instrument numbers
 - f. All existing physical access points shown
 - g. Legal access points shown or possibility for future County Road access permits established
 - h. Property Legal Descriptions
 - i. Surveyor's Certification – Signature block with statement
 - j. County Treasurer's Certification
 - k. County Assessor's Certification
 - l. Easter Idaho Public Health Certification
 - m. Teton County Board of County Commissioners Chair Certification
 - n. Fire District – Signature block with approval statement
 - o. Certificate of Survey Review – Signature block with approval statement
 - p. Owner's Certificate – Signature block with approval statement. MUST BE NOTARIZED
 - q. Recorder's Certificate
 - r. Certificate of Acceptance of Mortgagee, if applicable. MUST BE NOTARIZED

3. Process

Once a completed "Parcel Rectification Plat" application is made, the process for approval is as follows:

- i. Staff Review: Any proposed application shall first be reviewed by the Planning Administrator to determine if the application meets the criteria of this Chapter and the intent of the Comprehensive Plan. The Planning Administrator has the discretion to schedule a meeting with the applicant to review possible modifications of the application. Once the Planning Administrator has reviewed the application and finds it does or does not meet the criteria of this Chapter and the intent of the Comprehensive Plan, a letter will be sent to the applicant outlining the findings. If the application does meet the criteria of this section and the intent of the Comprehensive Plan, it will be scheduled on the next available Board of County Commissioner Agenda.
- ii. Board Review: The Board will review staff's findings and the application during a regularly schedule public meeting. The Board will approve, deny, or table the application to another meeting if additional information is needed. Approvals will only be granted if the application meets the criteria found in 9-11-4.
- iii. Survey Review: Once the Board has approved the application, the County Surveyor will review the submitted plat. Any changes needed to the plat will be forwarded to the applicant.
- iv. Recording: Once the plat has been reviewed and approved by the County Surveyor, the following shall be submitted to the Teton County Planning and Building Department for recording:
 - Two mylar copies of the Final Plat with approval signatures

- At least one paper copy of the Final Plat with approval signatures (for the applicant)
- Development Agreement, if required
- DWG format of Final Plat on CD

The applicant is responsible for all recording fees required at the time of recording.

4. Criteria for Approval-

The following criteria must be met in order for the application to be approved by the Board.

- i. The proposed lots must meet the minimum lot size of the underlying zone, exclusive of any public dedicated easements or right-of-ways, either based on the adopted requirements at the time of this application or the adopted requirements at the time the parcels were created through one of the processes identified in 9-11-1.
- ii. The proposed lots must have an approved access.
- iii. There must have been a survey recorded with Teton County showing the creation of the parcel(s) prior to 2010.
- iv. No more than two (2) buildable lots are being created through this process from the parent parcel.

D. Subdivision Process:

1. Applicability-The parent parcel of the illegal split would be eligible for a subdivision under the current existing code.
2. Process- The process for a subdivision must be followed, and the required fees for that process shall be submitted as well. The property owners of all parcels must sign the application.
3. Criteria for Approval- All requirements and submittals for the subdivision shall be followed.

9-11-9-8 DENIAL OF APPLICATION.

If the application fails to meet the criteria identified above, it shall be denied. Fees paid are not refundable if the application is denied.

9-11-10-9 APPEAL OF FINAL DECISIONS.

Decisions of the Board of County Commissioners are final. Applicants or affected property owners shall have no more than 14 days after the written decision is delivered to request reconsideration by the BoCC. If still not satisfied with a decision of the Board of County Commissioners, one may pursue appeals to District Court within 28 days of the written decision being delivered.